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ABSTRACT

This paper examines some of the factors currently shaping graduate coursework in legal education in Australia. There is some suggestion that the undergraduate law degree is likely to become more generalized and that specialization will occur at the graduate level with professional registration to follow. The shift from the somewhat insular and self-regulating culture of the Australian law school to a powerful mix of a state and market controlled environment has occurred in a very short space of time. The impact of graduate studies programs on the undergraduate degree is yet to be assessed as graduate courses become significant sources of income, differentiation, and status for the established schools. Developments in legal education open up several issues needing to be addressed: (1) the direct or indirect influence of the profession on legal education; (2) access to the legal profession in a mass higher education system; and (3) the question of who owns the curriculum. An appendix provides a list of the graduate courses offered at the Universities of Adelaide and Melbourne between 1987 and 1993. Contains 14 references. (GLR)

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Craig McInnis

Graduate education in Australian law schools: some recent developments

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Graduate education in Australian law schools: some recent developments

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Abstract

The paper examines some of the factors currently shaping graduate coursework in legal education in Australia.There is some suggestion that the undergraduate law degree is likely to become more generalist and that specialisation will occur at the graduate level with professional registration to follow. The shift from the somewhat insular and self-regulating culture of the Australian law schools to a powerful mix of a state and market controlled environment has occurred in a very short space of time. The impact of graduate studies programs on the undergraduate degree is yet to be assessed as graduate courses become significant sources of income, differentiation and status for the established schools.

This paper was presented at the Sixth Annual Consortium of Higher Education Researcher's Conference, Stockholm 1-3 July 1993. A revised version of the paper will be published in the Journal *Higher Education Policy* (Europe).

Developments in graduate education in Australian law schools have followed the pattern identified by Glazer (1986), and others, of becoming more clearly practitioner-oriented and skills-focussed. Despite these major shifts in orientation, and the marked increase in the popularity of the coursework master's degree, there has been, surprisingly, a distinct lack of interest in the actual study of graduate education by coursework generally (Gumport 1992). The literature, as Conrad and Egan point out:

> '... frequently mentions that many master's programs today exist in fundamentally new and different relationships with higher education, business and industry, the professions, and society in general. Further, there is a widely shared belief that these relationships are having a dramatic effect on master's education. Curiously, however, there is little research that has examined systematically the various internal and external forces shaping master's-level education' (1990:147)

In this paper some of the forces currently shaping graduate coursework in legal education in Australia are described, particularly those coming from the profession, as well as those from structural changes in the higher education system. In particular, there is some suggestion that the undergraduate law degree is likely to become more generalist and that specialisation will occur at the graduate level with professional registration to follow. Indeed Law is in high demand amongst school leavers as an alternative to, or combined with, a Bachelor of Arts or Science. The shift from the somewhat insular and self-regulating culture of the Australian law schools to a powerful mix of a state and market controlled environment has occurred in a very short space of time. The paper provides some background from a wider study of change in law schools (McInnis and Marginson, in progress) which is investigating the impact of a national discipline assessment of law conducted in 1987 (Pearce 1987). As part of its brief from the Commonwealth Tertiary Education Commission, the Pearce Committee — comprised of three senior legal academics — looked at the state of graduate studies in Australian law schools.

The influence of the market forces on the nature and extent of graduate programs in law is only part of the picture. Changes in social expectations, demographics and the state of the economy have all contributed. Not to be underestimated however are changes in the perceptions of the role of the law school from within the academic profession. The missions of most law schools have been undergoing an intense period of reassessment, especially in relation

to their connection with the profession. The problem of integrating academic and professional training in legal education has been an ongoing source of ambivalence, if not tension. It is certainly not new, and by no means peculiar to Australia. For example, the Ormrod Committee in the UK noted in 1971 that in contrast to medical faculties:

> 'The law faculties... have become isolated from the practising profession... The traditional antithesis between "academic" and "vocational", "theoretical" and "practical", which has divided the universities from the professions in the past, must be eliminated by adjustment on both sides' (1971: 34)

The development of graduate programs in Australia, especially the Graduate Diploma and the Master's coursework degree, appears to be bringing the legal academics and the profession together in a new relationship. .One factor common to both groups is the increased competition they face from within their own territories.

The major changes to graduate education in most Australian law schools have occurred since 1988. It must be said from the outset that the overall numbers are not large but the high status attached to gaining entry into law influences other undergraduate courses out of all proportion to the actual number of students. Of almost 560,000 students in the system, about 18,000 are currently enrolled in law: that is, 3.3 per cent. This has, however, increased as a proportion since 1988 when law students made up 2.6 per cent of the total enrolment. Of the current 99,000 higher degree students law has a similar proportion of the total higher degree numbers.

What makes law particularly interesting in the Australian context is, firstly the unprecedented and rapid expansion in the number of law schools and secondly, the uneven growth of graduate courses across the system.

Contrary to the Pearce Committee recommendation against the establishment of more law schools, and its explicit reservations about the role and significance of graduate studies, the number of law schools doubled in the wake of the introduction of the Unified National System in 1988, and the number of graduate courses more than trebled. Only six years ago there were 12 law schools in Australia comprised of two groups — those in the old universities, and a group of second wave schools established in the 1960s. Between them they offered 19 master's degrees and 10 graduate diplomas or certificates. By 1992 the picture had changed dramatically. In the five years from

1987 to 1992 the changes to the higher education system were so rapid, and so pervasive, that the recommendations and suggestions of the Pearce enquiry on graduate education have turned out to be largely irrelevant. From the system-wide turbulence there emerged a set of responses from law schools that could not have been reasonably predicted.

Despite corporate collapses and the well-publicised glut of lawyers in the late 80s, law has retained its status as one of the most desirable undergraduate courses; if anything the competition for places from both school-leavers and mature students has intensified. For the new universities, establishing a law school has been a fast and relatively cheap means of gaining status in the community. In the face of competition the role of graduate education has become one way in which the original twelve schools have maintained their seniority and prestige.

Pressure from the higher education system

It would be an exaggeration to say that the four volumes of the Pearce Report provided a blueprint for legal education in Australia, but it is something of a watershed, especially for a study of policy impact since it articulated a set of values, many of which were almost immediately ignored or quickly overtaken by system-wide developments. The primary reason for this has been the pressure to expand the higher education system. What is not often understood is that the recent expansion in student numbers overall in the Australian higher education system has been largely a product of the lengthening of the average period students are spending in universities. Students are staying beyond their initial degrees and enrolling for specialist courses, no doubt in the hope that it will enhance their chances of employment. While total student numbers in 1992 rose by 24,827 — a 4.6 per cent increase on the previous year — the growth has been largely confined to postgraduate students. Indeed, the undergraduate share of commencing student numbers has dropped from 80 per cent in 1989 to just over 74 per cent in 1992.

Pressure has also come from other policy initiatives. Since 1987 Australian universities have been encouraged by the Government to develop new graduate studies oriented to the needs of industry. The obvious incentive for the universities then was that they could charge fees. As it happened they tended at first to make established courses fee-paying instead of developing new courses. Further initiatives were then encouraged with Government guidelines

that allowed fee-paying only for those courses that were identified as 'leading to professional upgrading'. This effectively disqualified undergraduate students from going straight on to graduate diplomas and coursework master's degrees. With the demand from students to stay on in the system, it soon became clear that such students were being disadvantaged -- especially since the labour market was not promising for young graduates. Institutions were given more control over their enrolments and the financial bonus of fee-paying students proved a strong incentive for some universities to focus effort at the graduate level. It should be noted though that there was little point in universities making only a token effort to increase graduate numbers. In small schools the masters programs are seen as resource greedy since graduate places are funded at the same level as undergraduate courses. Spending a disproportionate amount of energy on a handful of master's students is regarded as potentially counterproductive for academics and the quality of undergraduate teaching.

The system-wide trend has favoured coursework at the graduate level since it is so clearly able to meet professional and industry needs. As Table 1 shows, the number of students in coursework higher degrees has overtaken the higher degree by research, particularly challenging the traditional unity between advanced study and research in the pre 1987 universities. In terms of commencement numbers for the system as a whole, the Master's degrees have continually increased in the last decade and the coursework commencements as a proportion of the enrolments reached a peak of 78 per cent in 1991. The slight shift in the balance back towards research degrees in 1992 is an interesting development but is not reflected in the trends for law.

Table 1: Students commencing Master's courses by type of study, 1988 to 1992.

year	research		coursework		total
	No.	Percentage	No.	Percentage	
1988	2284	26.1%	6475	73.9%	8759
1989	2550	25.2%	7553	74.8%	10103
1990	2859	22.1%	1008	77.9%	12942
1991	3536	21.7%	12786	78.3%	16322
1992	4721	24.7%	14423	75.3%	19144

source: DEET *Higher education statistics 1992.*

The changing context in law schools

As in most countries, the Bachelors of Laws (LLB) in Australia is still a first degree. It is usually a five year course which is reduced to three years for students entering as graduates from another field. Until now students enrolled for graduate courses in law in Australia have mostly been qualified and employed in legal and related professions. (Australian graduate education has not contributed to the professional socialisation process in the same way as, for instance, the US graduate school). Also, as noted earlier, Australian undergraduate students increasingly are taking combined courses such as the BA/LLB or BSC/LLB. Despite a fundamentally uniform course pattern, the Australian law schools are by no means homogenous. They range in their goals, implicitly at least, particularly the extent to which they consider themselves oriented to the needs of the profession. As might be expected, there are considerable differences within the schools in terms of the attitudes of the academics and their aspirations for students — from the explicitly vocational to the vociferously critical. There are some long-standing variations in the curriculum focus between the schools. It would be fair to say that the schools try hard to give their graduates a distinctive identity.

Despite the expansion of law enrolments again it should be noted that the numbers involved in graduate studies are relatively small. As Table 2 shows, graduate diplomas in 1992 account for 47 per cent of the students. The enrolment in masters by coursework has increased since 1988 from 35 to 39 per cent of the law students in graduate studies.

Table 2: Law students in graduate studies 1988 and 1992

Type of higher degree	No of students in 1988		No of students in 1992	
	number	percentage	number	percentage
Higher doctorate	1	0.05%	2	0.1%
Ph.D	67	3%	153	5%
Master's by research	218	11%	210	6%
Master's by coursework	708	35%	1279	39%
Postgrad qual./preliminary	1	0.05%	32	1%
Graduate diploma	951	47%	1526	47%
Graduate certificate	75	4%	57	2%

source: DEET, *Higher education statistics 1992.*

However, in contrast to the pattern of overall commencements in the higher education system, the trend for law schools in the balance between research and coursework degrees shown in Table 3 below has consistently been in favour of coursework.

Table 3: Students commencing Master's degrees in law by type of study, 1988-1992.

year	research		coursework		total
	No.	percentage	No.	percentage	
1988	82	20.0%	330	80.0%	412
1989	76	16.6%	382	83.4%	458
1990	93	16.5%	470	83.5%	563
1991	87	14.6%	507	85.4%	594
1992	79	12.0%	577	88.0%	656

Source: DEET, *Higher education statistics 1992.*

Some field of study differences make an interesting comparison with law. Figure 1 below illustrates the pattern of growth in completion rates across four fields, engineering, health, law, and science. With the exception of law, the research degree completions increased over the five year period but at a lower rate. The number completing the research degree in law on the other hand has declined.

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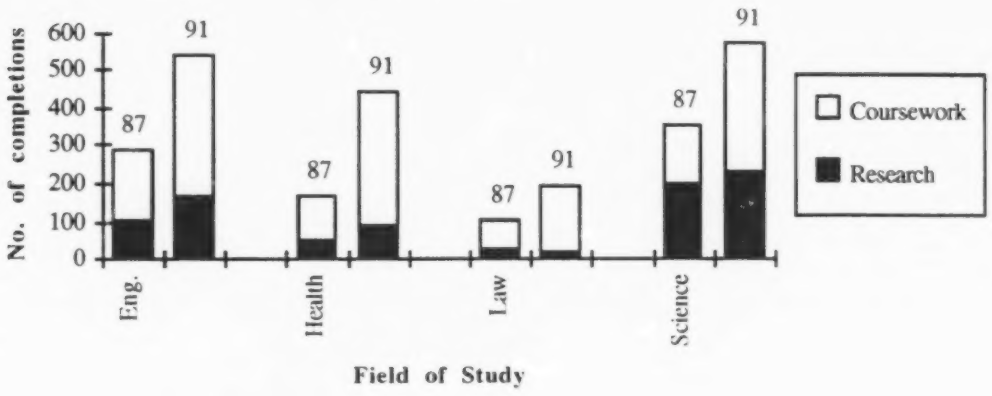
Figure 1.

Completions of Master's Degrees by field of study and method, 1987 & 1991



Sources: DEET (1993) *Selected higher education statistics*, Table 43. DEET (1988) *Selected higher education statistics*, Table 16.

In 1987 all twelve of the university schools of law offered graduate courses for the Doctor of Laws (LLD), the Doctor of Philosophy (PhD) and the Master of Laws (LLM). Only 7 of the 10 university schools operated master's by coursework programs although the other schools, including two institutes of technology, were proposing coursework master's at the time of the Pearce Review. Most of the growth in graduate studies occurred in the 1987 cohort of law schools. At the University of Adelaide, for instance, in 1987 the only graduate studies available were masters degrees (in Legal Studies, general coursework, and by research thesis) and the thesis Doctoral programs. By 1993 there were eight specialist graduate diploma courses on offer (for example Land and Resource Law), and three new Master of Laws coursework programs (for example Environmental Law).

The emerging purposes of the graduate programs

The purposes of the graduate program in law, especially for the coursework, was by no means clear in 1987. The course structures at that time followed a similar pattern in all law schools. and the coursework graduate program

usually involved a number of loosely linked subjects selected by the student from limited offerings and accompanied by a short thesis of somewhere between 16,000 and 30,000 words. Few of the master's courses then offered much in the way of concentration or specialisation. The 130 subjects available across the schools were described by the Pearce Committee as 'a fairly eclectic collection'. Any specialisation was left to the students to make in their selection from a smorgasbord of subjects. Where the purpose of coursework graduate education in 1987 was only somewhat vaguely directed at providing students with specialised knowledge and advanced skill training, the current preferred pattern is a grouping of subjects around a theme and a short thesis perhaps preceded by a research methodology course.

It is rather telling that the most common reasons for the slight growth of the master's courses around 1987 were summarised by the Pearce Committee almost entirely in terms of pressures from within the universities. Notably absent from the discussion at that time was any reference to the needs of the profession. It was clear that the course structures were perceived primarily as a matter for the law school and the students. It was argued, from the student viewpoint, that the master's degree was worthwhile insofar as it provided engagement in more difficult and sophisticated areas of law. Students might also have the opportunity to effectively broaden their coverage of substantive areas of law by picking subjects they missed out on at the undergraduate level. This occurred because of limitations of the undergraduate course structure where a large proportion of the course comprised a compulsory core.

The master's courses were considered by the Committee as having a number of advantages for academics including: complementing their research interests; providing the satisfaction of teaching more sophisticated students; encouraging work in cross-disciplinary settings; teaching with members of the profession; and offering courses that would not usually attract sufficient undergraduate numbers. For the law school overall, the master's program was seen as providing a point of concentration for particular strengths in teaching and research.

The Pearce Committee saw its task as limited to assessing the value of the master's courses and the graduate diplomas that were being run in parallel. Again, to illustrate the low interest in the LLM only six years ago, the Committee made few recommendations or suggestions on the standing or development of graduate studies. Clearly though, the Committee was not particularly impressed by the growth in the general master's degree by coursework. It suggested that there was 'an element of fashion' involved and

was by no means convinced that the subjects offered in many cases were either suitable or of an appropriate standard. Indeed, the Committee concluded that 'the coursework graduate programs have in most law schools been allowed to grow without a great deal of thought being given to the reasons for their existence.' (1987: 236) Schools were criticised for the lack of choice in their undesignated or generalist master's degree:

> '. . . the subjects offered in these schools do not form a coherent group and look very much as though they are what can be got together for the course in that year' (1987: 240).

The growth of graduate studies since then has not, however, been uniform across the law schools. Few of the post 1987 schools have developed graduate diplomas as yet. The master's by research is the first (and no doubt cheapest) step for new law schools to take beyond the undergraduate level. One of the unintended consequences of the Pearce Report may well have been raising the level and intensity of competition between the schools, and now, with the schools looking to the profession for support, nowhere is the competition more obvious than in the market place for graduate education. The old established schools have the edge.

The Pearce Committee also expressed concern about subjects in master's courses which simply extended the basic undergraduate subjects, that is, in their view, 'mere "topping-up" subjects should not form the basis of master's degree courses.' and 'an examination of areas of the law that present technical difficulties is not in itself sufficient to form the basis for the award of a higher degree.' (1987: 237) In other words, more of the same was not considered the appropriate role of the master's course and it was implied that there should be a qualitative difference in purpose and substance between undergraduate and graduate studies. Although the committee did not provide a guidelines for the development of master's coursework degrees, it did suggest some distinguishing criteria. Firstly, the perspectives offered in the master's program should be at a level of sophistication and difficulty not expected in an undergraduate program. The notion of an advanced level involved students making 'evaluations' of the law. Secondly, the Committee felt that a master's degree ought to 'put the relevant law in its broader context and indicate that the student is capable of obtaining a critical overview of the subject.' (1987: 237) Both were interesting points of distinction since they inferred that the undergraduate degree was essentially about identifying and applying rules of

law. It would be misleading to say that the committee made much of the distinction since it is plain from their observations in other parts of the report that the development of theoretical and critical perspectives in the undergraduate degree were considered important.

Another issue raised by the Committee that influences the purpose of graduate study was the lack of distinction between the aims of the master's course and the operation of continuing legal education. The distinction is important if particular views of university education are assumed, most especially the view that 'the intellectual content must be the significant feature of the (master's) course' (1987: 239). They were relatively more positive about the specialist or 'designated' master's degree:

> '. . . we foresee the day when legal practitioners may become specialists as is the case with other professions and will have to undertake courses to qualify themselves to be so designated' (1987: 243).

Pressure from the profession

External pressures on the legal profession influencing the nature and extent of their demand for graduate legal education can be summarised in terms of changes to the law itself, new approaches to practice, and an uncommonly intense competition for clients. Weisbrot (1993) identifies a number of trends in the development of the Australian legal profession -- some of which have particular implications for the shape and direction of graduate education. The growth of numbers in the profession is the first and most obvious change and this has created a potentially large market for graduate courses especially amongst those on the margins of employment. The economic recession has sharpened the competition between individuals and legal firms so that both are looking for skills and knowledge that will give them personal or commercial advantage. Private legal practices have been forced to become more business-like in their approach and staff development is more commonly becoming the responsibility of the firm than of individuals.

The competition that favours the growth of graduate education is not just coming from within the legal profession. There is considerable pressure on the profession. The boundaries of legal practice have become weaker and long-standing anti-competitive structures of the legal profession are under attack from governments. Like many countries, Australia has seen a breakdown of

these protective practices that once characterised the 'closed shop' of the legal profession, especially for barristers, and there is now greater competition within the profession and between the profession and other agencies. In addition, there has been a deprofessionalisation of some aspects of legal practice, such as residential conveyencing. A consequence of all this is again the need for practitioners to take up new areas of specialisation, to carve out new areas for business. In turn — and the extent of this is yet to be investigated — it is likely that the trend to specialisation by the practitioners encourages academics to further specialise their teaching and research interests.

There is also the increasing complexity of the law, a propensity for reform and the regulation of many new areas such as environmental law. Practitioners appear to be more comfortable than they once were to use academics as a source of specialised knowledge and skills. Legal academics are well placed to keep abreast of these developments, and to put them into a social as well as legal context. In contrast, as the Chief Justice recently observed, the profession is perhaps limited in its approach to the law:

> 'The New South Wales legal profession is noted for its specialised technical competence rather than for its contribution to the development of the law or for its constructive capacity to mould the law to the needs of society in association with other disciplines' (Mason 1991: 24).

A relevant development, probably not peculiar to Australia, is the mobility of the practitioners. Where once they tended to stay within the jurisdiction in which they trained, practitioners are becoming increasingly mobile, nationally and internationally. Law schools are confronted with a more diverse clientele at the graduate level and have themselves a need to move outside their local sphere of influence.

Finally, the globalisation of business has meant that the legal profession has followed suit. As Lewis (1992) observes, the convergence between legal professions internationally and the uniform contexts and problems they face are influencing the shape of both undergraduate and graduate legal education. Lewis emphasises this as perhaps the most significant force shaping legal education generally:

> '. . . the internationalisation of practice has had no parallel in recent history and, by making legal professions more independent of

national controls and less located within a particular legal culture, will have a radical effect on the balance of forces which have operated up to now in legal education' (1992: 1144).

In Australia the law schools are following the profession, government and business across international borders and especially in Asia.

The research imperative

Gumport argues that, despite the expansion of coursework teaching, the 'research imperative persists' (1992). It is not so clear in law. The relationship in law between the coursework and research directions needs investigation. The growth of the coursework degree at both master's and doctoral levels concerns academics whose allegiance is to the research degree as the norm. There has, however, never been a strong interest in the research degree in law schools. Legal education in Australia has typically been staffed by academics without higher degrees (the 'trade school' label applied from other disciplines in the university has been hard to shake off). In 1992, in complete contrast to science academics for instance, only 20 per cent of Australian legal educators held a doctorate, 42 per cent had a master's degree and the remainder had bachelor's degrees, usually the Bachelor of Laws. From 1980 to 1984 the total number of candidates awarded the PhD in law schools nationally was 21. By 1985 most schools had only 2 or 3 PhD students.

The Pearce Committee explained the low numbers of PhD qualifications in the mid 80s in terms of, the lack of employer interest in doctoral graduates; the irrelevance of the PhD for legal academic careers; the narrowness of the PhD *vis a vis* traditional legal research; and the low number of scholarships then available for graduate studies in law. The Committee did, however, comment on the 'regrettably low' number of PhD candidates and noted the lack of 'major' research training of potential law academics compared with social scientists.

The view of the master's degree was dictated by the perceived importance of the thesis. The Committee felt strongly that there should be a 'substantial written component' in the assessment of the LLM. Ultimately, it was felt that the LLM degree should:

'... certify not only a knowledge of law at an advanced level in certain areas. It should also indicate that a person is capable of conducting original research and writing up that research at a standard appropriate to graduate studies' (1987: 239).

Law schools have complained in the past about the lack of understanding from the university of the 'special nature' of legal research which often involves mainly synthesising and providing commentary on the law. This lack of recognition has been seen in university promotions procedures. With so much status currently being attached to grants received for empirical research in the social science tradition some law schools are dealing with the pressure to shift their research orientation.

The minor research thesis or project is integral to most coursework master's programs but it has little status as a form of preparation for research.The growth of graduate coursework programs raises questions about the function of the minor thesis. It may well be that the graduate coursework programs have created a new impetus for academics to generate applied research through work with the profession, and in the process giving the minor thesis new significance and a role that more closely aligns the needs of the profession and the law school. These developments deserve investigation if the impact of the graduate program is to be understood.

Impact on the undergraduate degree

It would be too simplistic to suggest that the growth of graduate courses is alone in influencing the shape and function of the undergraduate degree. There is a convergence of 'stakeholder' interests -- the profession, government, law schools, and students in particular -- that is only just impacting in a formal way on the structure and function of the undergraduate degree. In that context the role of graduate courses is only just emerging. In Queensland for example, a recent legal summit convened by the Attorney General concluded that:

'There was a general view that the traditional curriculum of Queensland law schools is based on the assumption that all graduates were destined to become Barristers and Solicitors and that the emphasis on teaching "black letter law" and "core" legal subjects was disproportionate' (Minister for Justice, 1993).

This press for a review of the role of the undergraduate degree has multiple origins. The most obvious has been the combination of the expansion in higher education participation levels and the competition for jobs amongst graduates. This has effectively generated a status race amongst students. The status of law schools too is at stake being dependent on the relative success they have in getting students into the workforce. There are signs that the undergraduate law degree is challenging the arts and sciences degree as the preferred form of initial generalist education for high achieving school leavers. High-achieving students who would otherwise have enrolled in an arts degree are now taking law instead. Simultaneously, the decline in the critical mass of law students who want to be practitioners has placed pressure on the law schools to broaden the first law degree.

The demand for places in law shows no sign of abating despite the well-known oversupply of law graduates. It is widely reported that nationally there are now almost as many students enrolled for law courses -- including those run outside the law schools -- as there are practitioners. It appears that students doing combined degrees such as Science/Law or Arts/Law are as likely to be using the law degree to enhance the other degree as much as vice-versa. For those who do not wish to become practitioners, the law degree also gives the option to take up law later in their careers if and when the labour market changes. One outcome of this is the likely preference for more flexible undergraduate degrees as preparation for graduate specialist studies. The graduate studies then take up the areas of specialisation formerly taught in the undergraduate course.

The overall integrated structure of the designated master's curriculum around a theme gives the course its special character. This presents potential problems for both undergraduate and graduate levels. For resource rather than pedagogical reasons, it is often the case that graduate students may take some electives from the undergraduate program and vice-versa. The content of the individual subject remains the same but variations in assessment requirements are the only means used to distinguish the undergraduate and graduate students. There are risks to the integrity of both courses. For example, the aim of teaching at the graduate level at one major law school is to 'provide a sophisticated, specialised upgrading' of legal knowledge. This, by definition, assumes prior knowledge and experience which is obviously not always shared by the group. The impact on the quality of the undergraduate course in this case is interesting. The school concerned prides itself on the wide

range of elective subjects offered to undergraduate students as specialist areas. However, a negative cycle is set up when limited resources justify later year students enrolling in LLM subjects. Tensions for both academics and students are created which have the potential for undermining the quality of teaching and influencing curriculum development.

In another case, at a pre 1987 school the possibility of mixing undergraduate and graduate students was initially treated with caution partly because of concerns about the nature and quality of the optional subjects. The school reported to a curriculum review board that:

> 'Optional subjects should be of a more general and overview nature than at present, and should seek to build on areas of knowledge already covered in the compulsory curriculum, or to extend into new areas that were closely linked to the compulsories; optional subjects of a more specialised character should be deleted from the curriculum' (1988).

This view would be regarded only five years later at that school as conservative. With the strong, almost aggressive, development and marketing of graduate diplomas and master's degrees that followed in this school, the options became deliberately specialist in character and undergraduate students were able to participate.

Finally a point that requires closer examination is that specialist degrees can present problems for staffing which also work back on the undergraduate courses. The Pearce Committee warned for instance that maintaining a program with specialist staff may skew the staff profile and limit options elsewhere.It has been noted from case studies that academics show a distinct preference for teaching in the flagship graduate courses with their high profile in the profession and their close association with consultancies. The outcome of these shifts in orientation is in need of investigation.

Summary and conclusions

While the growth of graduate education in law may be seen as reflecting similar patterns across the system as a whole, law is perhaps a special case in that the research degree is declining in relative terms. In summary, the growth of graduate studies in law is having an influence on the approaches of law schools to legal education at both undergraduate and graduate levels. The impact is yet to be fully felt, but so far the addition of new graduate courses is partly influencing, and being influenced by, changes in the structure and substance of the undergraduate curriculum. The press for graduate school activity also has the potential for altering the direction of research in law schools, influencing the quality of teaching, and shifting the relationship between the law schools and the profession.

Graduate study in Australian law schools has only recently become the vehicle for academic status for individuals and institutions. For individual students the graduate diploma, or master's coursework degree, is perceived as improving the opportunity for securing or maintaining employment through specialised legal knowledge and skills. For law schools the range of graduate courses is likely to become an indicator of their standing in the profession and their status in the hierarchy of legal education, nationally and internationally.

Establishing leadership in the graduate market place is the main game in the jostling for prestige amongst Australian law schools. Graduate courses are the obvious target since they are more readily negotiated and have the advantage over undergraduate courses of offering short term returns to both the profession and the law schools. They also have more status and legitimacy than continuing legal education courses operated by the profession or accrediting bodies. One obvious risk is that, with limited resources, the law schools will compromise the quality of both graduate and undergraduate course structures and content.

These developments in legal education open up a raft of issues that need to be addressed. One that stands out is the question of what the profession wants from graduate coursework. It is not clear yet just how much direct or indirect influence the profession is having. Perhaps reinforcing the fears of legal academics in some schools that the profession wants 'quick fix' courses for technicians, a survey of the profession by a marketing group for one case study found that the primary benefit sought by practioners for graduate courses was knowledge and skills. On the other hand, there was a clear message from

the profession that the study at the master's level should be intellectually rigorous while offering applied perspectives on specific problems.

Another issue yet to be considered concerns access to the legal profession in a mass higher education system. It may well be that graduate specialisation becomes a tool for screening students. The length of the undergraduate law degree has in the past been seen as an obstacle for students from lower socio-economic groups. The possible extension of the degree will favour those young people with greater family resources. It will most likely favour the old and prestigious law schools as well.

There is also the broader question of who owns the curriculum. It is not enough to look at the formal structural arrangements within schools or even the formal requirements of the various accrediting bodies. The everyday choices made by academics, students and the profession about what will be taught and learned is playing a more powerful role in the context of meeting market demands -- real or created. What is needed is closer study of the motives and practices of the key actors.

A broader concern goes to the character of the law school and its place within the university. The Chief Justice recently summarised the position well:

> 'The law schools must resist the temptation to become business schools, deferring to the demands of large commercial practices and ignoring consideration of intellectually demanding questions posed by the traditional subjects as well as the larger and enduring jurisprudential issues relating both to the structure of legal systems and to the law's role in society' (Mason 1991: 24).

Along similar lines, Gumport points to one set of propositions from higher education scholars arguing that:

> '. . . processes of graduate education are increasingly oriented to serve national technological needs, an indicator that the academic profession itself has been moving in a direction toward the loss of professional autonomy and control over their labor' (1992: 1126).

In the case of law schools the current investigation suggests the outcome has not been quite so clear cut. On the positive side, the introduction of graduate courses has given academics the opportunity to develop and pursue specialised interests in teaching which may well enhance their autonomy.

Perhaps too, for law academics there is the possibility of creating a more meaningful nexus between teaching and research. Closer analysis might well reveal that the market forces have not been allowed to entirely dictate the direction of the curriculum against the preferences of the academics.

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APPENDIX 1 GRADUATE COURSES 1987 and 1993

University of Adelaide

1987	1993
	Graduate Diploma in Commercial Law
	Graduate Diploma in Company Law
	Graduate Diploma in Criminal Law
	Graduate Diploma in Family Law
	Graduate Diploma in Land and Resource Law
	Graduate Diploma in Public Law
	Graduate Diploma in Securities Law
	Graduate Diploma in Taxation Law
Master of Legal Studies	Master of Legal Studies
Master of Laws (by coursework)	Master of Laws (Commercial)
	Master of Laws (Companies and securities)
	Master of Laws (Environmental Law)
Master of Laws (by research thesis)	Master of Laws (by research thesis)
Doctor of Philosophy	Doctor of Philosophy
Doctor of Laws	Doctor of Laws

University of Melbourne

1987	1993
	Graduate Diploma in Dispute Resolution and Judicial Administration
	Graduate Diploma in Asian Law
	Graduate Diploma in Intellectual Property Law
	Graduate Diploma in Labour Relations Law
	Graduate Diploma in Media, Communications and Technology Law
	Graduate Diploma in Natural Resources Law
	Graduate Diploma in Corporations and Securities Law
	Graduate Diploma in Government Law
Master of Laws (by coursework)	Master of Laws (by coursework)
Master of Laws (by research thesis)	Master of Laws (by research thesis)
Doctor of Laws	Doctor of Laws
PhD	PhD

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